


# COUNTY OF YORK

## MEMORANDUM

**DATE:** January 4, 2006 (BOS Mtg. 1/17/06)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator 

**SUBJECT:** Amendments to Chapters 23.1, Wetlands, and 23.2, Chesapeake Bay Preservation Areas

On December 20, 2005, the Board adopted a series of housekeeping and clarifying amendments to both the Subdivision Ordinance and the Zoning Ordinance. The Board's August 2005 sponsorship of those amendments also included several proposed amendments to Chapters 23.1 and 23.2 of the County Code intended to ensure consistency with Chesapeake Bay Preservation Area requirements and also to provide for internal consistency among all four chapters (Zoning, Subdivision, Wetlands and Chesapeake Bay). Because the Chapter 23.1 and 23.2 amendments did not require referral to the Planning Commission, they were held back and not included in the package considered on December 20.

The proposed amendments can be summarized as follows:

### **Chapter 23.1 – Wetlands.**

#### **Section 23.1-3. Wetlands board – Generally**

- The proposed amendment will incorporate language from the State Code that provides specific authorization allowing Wetlands Board members to also serve on a local Chesapeake Bay Preservation Area board. As the Board will recall, when Chapter 23.2 was established in May 2005, it included provisions designating the members of the Wetlands Board to sit as the Chesapeake Bay Preservation Area Board.

### **Chapter 23.2 – CHESAPEAKE BAY PRESERVATION AREAS**

#### **Section 23.2-14. Appeals**

- When the appeals provisions for Chesapeake Bay issues were part of the Zoning Ordinance, they were subject to the fee structure applicable to appeals taken to the Board of Zoning Appeals. In creating the Chapter 23.2, the fee requirement for appeals was inadvertently omitted. This proposed amendment will establish a \$250 fee for appeals (the same fee as is required for applications for Exceptions, which are also heard by the Chesapeake Bay Board).
- When they were a part of the Zoning Ordinance, the Chesapeake Bay Preservation Area regulations provided an opportunity for the Board of Supervisors to appeal

decisions of the local Chesapeake Bay Board (previously the Board of Zoning Appeals; now the Wetlands Board, sitting as the CBB). When the Chesapeake Bay Preservation Area requirements were shifted to a new and separate section of the County Code, the references and procedures that provided that appeal opportunity were inadvertently omitted. After consultation with the County Attorney, staff recommends that the language in subsection 23.2-14(c) be modified to specifically establish the Board of Supervisors' right to initiate an appeal action.

- When a part of the Zoning Ordinance, the enforcement mechanisms for Chesapeake Bay Preservation Area violations were the same as those spelled out for other zoning violations (civil penalties, injunctions, etc.). In the process of transferring the regulations to the new Chapter 23.2, the provisions dealing with injunctions were inadvertently omitted. The proposed revisions add language to indicate that as an option in the enforcement process.

#### Recommendation

The proposed amendments ensure consistency with State Code provisions and restore provisions that were inadvertently omitted in previous applications. They represent no change in policy. Accordingly, I recommend their approval through the adoption of proposed Ordinance No. 06-1.

Carter/3337

#### Attachment

- Proposed Ordinance No. 06-1